



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/147606

PRELIMINARY RECITALS

Pursuant to a petition filed February 22, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on March 27, 2013.

The issue for determination is whether petitioner was entitled to FS when he was incarcerated.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Tom Miller

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County. Petitioner was an ongoing FS recipient.

2. For the period of at least December 12, 2012 through March 27, 2013 petitioner was incarcerated. See, Exhibit 2.
3. Via written notice dated January 17, 2013, respondent informed petitioner that his FS benefits would terminate effective February 1, 2013.

DISCUSSION

The county agency ended the petitioner's FoodShare allotment when it learned that petitioner had been incarcerated in the La Crosse County jail as of December, 12, 2012. The basis of its action is 7 C.F.R. § 273.1(b)(7)(vi), which states that residents of an institution that provides over half of their meals cannot receive FoodShare. This standard is further delineated in the FoodShare Wisconsin Handbook:

An individual who is incarcerated for more than 30 days is ineligible for FoodShare unless they meet all of the Huber criteria listed below. ...

FS Wisconsin Handbook § 3.2.1.2.2. Petitioner is not a participant in the Huber program, and has been incarcerated for more than 30 days. As such, I conclude that the respondent correctly terminated petitioner's FS benefits enrollment.

CONCLUSIONS OF LAW

Petitioner is not eligible for FS benefits while incarcerated, as said incarceration has continued for more than 30 days and petitioner is not a participant in the Huber program.

THEREFORE, it is ORDERED

That the matter is hereby dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that

Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 19th day of April, 2013

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on April 19, 2013.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability